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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,703	05/01/2001	Mark W. Kroll	A01P1028	6988
36802	7590	07/07/2005		
PACESETTER, INC. 15900 VALLEY VIEW COURT SYLMAR, CA 91392-9221				
			EXAMINER OROPEZA, FRANCES P	
			ART UNIT 3762	PAPER NUMBER

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,703

Applicant(s)

KROLL, MARK W.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/26/05 (Amendment and RCE).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The Applicant's submission filed on 5/26/05 has been entered.

Amendment and Reconsideration

2. The Applicant amended independent claims 1, 18, and 27, hence the grounds of rejections are withdrawn and a new grounds of rejection established in the subsequent paragraphs.

Claim Rejections - 35 USC § 102

3. Claims 1-10, 13-20 and 22-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Verboven-Neilssen (US 5720768). Verboven-Neilssen substantially teaches the instant invention, disclosing a multi-chamber sensing and stimulation system with capture verification/conduction verification. Multiple electrode configurations are taught including intra-atrial, intra-ventricular, bi-atrial, bi-ventricular, and atrio-ventricular configurations. In addition, various bipolar and unipolar electrode arrangements, electrode polarities and tip/ ring/ indifferent electrode combinations are disclosed. Verboven-Neilssen teaches delivering a single pacing pulse between the left and right ventricular electrodes (abstract; figs. 1, 4A, 4B, 5A, 5B; col. 2 @ 11-51; col. 3 @ 11 – col. 4 @ 15; col. 4 @ 38-44 and 58-67; col. 5 @ 14-59).

Claim Rejections - 35 USC § 103

4. Claims 11, 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verboven-Neilssen (US 5720768) in view of Salo et al. (US 6278894). As discussed in paragraph 3 of this action, Verboven-Neilssen discloses the claimed invention except for using impedance to monitor capture.

Salo et al. teach capture monitoring/ monitoring evoked change using impedance for the purpose of determining cardiac output. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used capture monitoring via impedance in the Verboven-Neilssen system in order to provide a proven means for precisely determining cardiac output so the stimulation energy can be more precisely optimized to provide optimal cardiac perfusion for the patient (col. 3 @ 31-65; col. 4 @ 21-33).

Statutory Basis

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (571) 272-4953. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communication and for After Final communications.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
2/5/05


ROBERT E. PEZZUTO
PRIMARY EXAMINER